

UNITED STATES OF AMERICA
UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

AARON JACKSON,

Plaintiff,

Case No. 1:14-cv-838

v.

Honorable Gordon J. Quist

DANIEL H. HEYNS et al.,

Defendants.

OPINION

This is a civil rights action brought by a state prisoner pursuant to 42 U.S.C. § 1983.

The Court has granted Plaintiff leave to proceed *in forma pauperis*. Under the Prison Litigation Reform Act, PUB. L. No. 104-134, 110 STAT. 1321 (1996), the Court is required to dismiss any prisoner action brought under federal law if the complaint is frivolous, malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from a defendant immune from such relief. 28 U.S.C. §§ 1915(e)(2), 1915A; 42 U.S.C. § 1997e(c). The Court must read Plaintiff's *pro se* complaint indulgently, *see Haines v. Kerner*, 404 U.S. 519, 520 (1972), and accept Plaintiff's allegations as true, unless they are clearly irrational or wholly incredible. *Denton v. Hernandez*, 504 U.S. 25, 33 (1992). Applying these standards, Plaintiff's action will be dismissed because the allegations either fail to state a claim or are frivolous.

Factual Allegations

Plaintiff Aaron Jackson presently is incarcerated with the Michigan Department of Corrections (MDOC) and housed at the Macomb Correctional Facility, though at the time he filed his complaint, he was housed at the Richard A. Handlon Correctional Facility (MTU). He sues MDOC Director Daniel H. Heyns; United States President Barack Obama; MTU Deputy Shawn Young; and (unknown) Crowley, the former Warden of the Baraga Correctional Facility (AMF).

Plaintiff alleges that President Obama permitted the government to step in when certain judges were considering one of Plaintiff's prior lawsuits, thereby preventing Plaintiff from receiving a fair judgment. He also alleges that the federal government has enslaved African-American people for over 400 years, as it has enslaved him for the last 18 years. He asserts that, while he has been in prison for 20 years, he has been the subject of scientific experimentation for the last 18 years. During that time, the government allowed the MDOC to put a microchip in his brain and use him as a guinea pig, while obtaining information about his life, thoughts and family. He also alleges that the microchip has caused a state of meningitis.

In addition, Plaintiff contends that Defendant Warden Crowley put him in a state of hypnosis, causing him to lose the power of voluntary action and to be responsive to suggestion. While he was in that state 18 years ago at AMF, an alien put the microchip into his head. Now that Plaintiff is at MTU, Defendant Young allegedly authorized the same alien to throw Plaintiff around his cell, forcing Plaintiff's fist into the wall and breaking it. Defendant Young allegedly told Plaintiff that he could have the alien do anything he wanted, as long as the alien did not kill Plaintiff.

Plaintiff also alleges that Defendant Young is having food-service personnel put a substance in the dining hall food and in Plaintiff's food purchased from the commissary. The

substance allegedly causes cancer and has gone to Plaintiff's eyes, causing vision problems. Plaintiff alleges that he went through the same mistreatment in 1998-99, until Congressman Conyers put a stop to Crowley's experimentation.

Further, according to the complaint, Defendant Young has violated Plaintiff's rights in a variety of ways. First, Plaintiff alleges that Defendant Young and other MDOC staff have prevented some of Plaintiff's mail from reaching Representative Conyers and the newspapers, apparently because he is not receiving answers. In addition, Young and other MDOC staff allegedly removed and rewrote pages from Plaintiff's § 1983 briefs before they were sent to Plaintiff's attorney, Arlene Woods. Plaintiff also claims that he is missing legal documents from his footlocker. Moreover, Plaintiff alleges that Defendant Young and other staff have improperly accounted for the funds placed in Plaintiff's prisoner trust account. Further, Defendant Young allegedly has put something in Plaintiff's food that causes constipation, rectal swelling, and hemorrhoids. Finally, Plaintiff alleges that Defendant Young has injected his food with human immunodeficiency virus, laughing at Plaintiff about the harm it was doing Plaintiff. Once the virus gets into Plaintiff's arteries and veins, Young and others put a hot substance into his food to burn out his immune system. All of these things allegedly caused Plaintiff to experience vision loss.

Discussion

I. Failure to state a claim

A complaint may be dismissed for failure to state a claim if it fails “to give the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (quoting *Conley v. Gibson*, 355 U.S. 41, 47 (1957)). While a complaint need not contain detailed factual allegations, a plaintiff's allegations must include more than labels and conclusions. *Twombly*, 550 U.S. at 555; *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)

(“Threadbare recitals of the elements of a cause of action, supported by mere conclusory statements, do not suffice.”). The court must determine whether the complaint contains “enough facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at 679. Although the plausibility standard is not equivalent to a “‘probability requirement,’ . . . it asks for more than a sheer possibility that a defendant has acted unlawfully.” *Iqbal*, 556 U.S. at 678 (quoting *Twombly*, 550 U.S. at 556). “[W]here the well-pleaded facts do not permit the court to infer more than the mere possibility of misconduct, the complaint has alleged – but it has not ‘show[n]’ – that the pleader is entitled to relief.” *Iqbal*, 556 U.S. at 679 (quoting FED. R. CIV. P. 8(a)(2)); *see also Hill v. Lappin*, 630 F.3d 468, 470-71 (6th Cir. 2010) (holding that the *Twombly/Iqbal* plausibility standard applies to dismissals of prisoner cases on initial review under 28 U.S.C. §§ 1915A(b)(1) and 1915(e)(2)(B)(i)).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege the violation of a right secured by the federal Constitution or laws and must show that the deprivation was committed by a person acting under color of state law. *West v. Atkins*, 487 U.S. 42, 48 (1988); *Dominguez v. Corr. Med. Servs.*, 555 F.3d 543, 549 (6th Cir. 2009). Because § 1983 is a method for vindicating federal rights, not a source of substantive rights itself, the first step in an action under § 1983 is to identify the specific constitutional right allegedly infringed. *Albright v. Oliver*, 510 U.S. 266, 271 (1994).

Plaintiff claims that Defendant Young and other MDOC employees took Plaintiff’s personal property and other trust account funds without due process of law. Plaintiff’s due process claim is barred by the doctrine of *Parratt v. Taylor*, 451 U.S. 527 (1981), *overruled in part by*

Daniels v. Williams, 474 U.S. 327 (1986). Under *Parratt*, a person deprived of property by a “random and unauthorized act” of a state employee has no federal due process claim unless the state fails to afford an adequate post-deprivation remedy. If an adequate post-deprivation remedy exists, the deprivation, although real, is not “without due process of law.” *Parratt*, 451 U.S. at 537. This rule applies to both negligent and intentional deprivation of property, as long as the deprivation was not done pursuant to an established state procedure. *See Hudson v. Palmer*, 468 U.S. 517, 530-36 (1984). Because Plaintiff’s claim is premised upon allegedly unauthorized acts of a state official, he must plead and prove the inadequacy of state post-deprivation remedies. *See Copeland v. Machulis*, 57 F.3d 476, 479-80 (6th Cir. 1995); *Gibbs v. Hopkins*, 10 F.3d 373, 378 (6th Cir. 1993). Under settled Sixth Circuit authority, a prisoner’s failure to sustain this burden requires dismissal of his § 1983 due-process action. *See Brooks v. Dutton*, 751 F.2d 197 (6th Cir. 1985).

Plaintiff has not sustained his burden in this case. Plaintiff has not alleged that state post-deprivation remedies are inadequate. Moreover, numerous state post-deprivation remedies are available to him. First, a prisoner who incurs a loss through no fault of his own may petition the institution’s Prisoner Benefit Fund for compensation. MICH. DEP’T OF CORR., Policy Directive 04.07.112, ¶ B (effective Dec. 12, 2013). Aggrieved prisoners may also submit claims for property loss of less than \$1,000 to the State Administrative Board. MICH. COMP. LAWS § 600.6419; MDOC Policy Directive 03.02.131 (effective Oct. 21, 2013). Alternatively, Michigan law authorizes actions in the Court of Claims asserting tort or contract claims “against the state and any of its departments, commissions, boards, institutions, arms, or agencies.” MICH. COMP. LAWS § 600.6419(1)(a). The Sixth Circuit specifically has held that Michigan provides adequate post-deprivation remedies for deprivation of property. *See Copeland*, 57 F.3d at 480. Plaintiff does not allege any reason why a

state-court action would not afford him complete relief for the deprivation, either negligent or intentional, of his personal property.

Plaintiff also appears to suggest that Defendant Heyns is responsible for failing to prevent Young or other employees from taking his property. Even had Plaintiff articulated a cognizable due process claim, his claim would fail against Defendant Heyns. Government officials may not be held liable for the unconstitutional conduct of their subordinates under a theory of respondeat superior or vicarious liability. *Iqbal*, 556 U.S. at 676; *Monell v. New York City Dep’t of Soc. Servs.*, 436 U.S. 658, 691(1978); *Everson v. Leis*, 556 F.3d 484, 495 (6th Cir. 2009). A claimed constitutional violation must be based upon active unconstitutional behavior. *Grinter v. Knight*, 532 F.3d 567, 575 (6th Cir. 2008); *Greene v. Barber*, 310 F.3d 889, 899 (6th Cir. 2002). The acts of one’s subordinates are not enough, nor can supervisory liability be based upon the mere failure to act. *Grinter*, 532 F.3d at 575; *Greene*, 310 F.3d at 899; *Summers v. Leis*, 368 F.3d 881, 888 (6th Cir. 2004). Moreover, § 1983 liability may not be imposed simply because a supervisor denied an administrative grievance or failed to act based upon information contained in a grievance. See *Shehee v. Luttrell*, 199 F.3d 295, 300 (6th Cir. 1999). “[A] plaintiff must plead that each Government-official defendant, through the official’s own individual actions, has violated the Constitution.” *Iqbal*, 556 U.S. at 676. Plaintiff has failed to allege that Defendant Heyns engaged in any active unconstitutional behavior with respect to his property. He therefore fails to state a due process claim against him.

With respect to his allegations that Defendant Young or other MDOC employees altered his § 1983 briefs in a live action, Plaintiff appears to be attempting to raise an access-to-the-courts claim. Although the allegations border on frivolousness, even if accepted as true, they fail to state a claim.

It is well established that prisoners have a constitutional right of access to the courts. *Bounds v. Smith*, 430 U.S. 817, 821 (1977). The principal issue in *Bounds* was whether the states must protect the right of access to the courts by providing law libraries or alternative sources of legal information for prisoners. *Id.* at 817. The Court further noted that in addition to law libraries or alternative sources of legal knowledge, the states must provide indigent inmates with “paper and pen to draft legal documents, notarial services to authenticate them, and with stamps to mail them.” *Id.* at 824-25. The right of access to the courts also prohibits prison officials from erecting barriers that may impede the inmate’s accessibility to the courts. *See Knop v. Johnson*, 977 F.2d 996, 1009 (6th Cir. 1992).

An indigent prisoner’s constitutional right to legal resources and materials is not, however, without limit. In order to state a viable claim for interference with his access to the courts, a plaintiff must show “actual injury.” *Lewis v. Casey*, 518 U.S. 343, 349 (1996); *see also Talley-Bey v. Knebl*, 168 F.3d 884, 886 (6th Cir. 1999); *Knop*, 977 F.2d at 1000. In other words, a plaintiff must plead and demonstrate that the shortcomings in the prison legal assistance program or lack of legal materials have hindered, or are presently hindering, his efforts to pursue a nonfrivolous legal claim. *Lewis*, 518 U.S. at 351-53; *see also Pilgrim v. Littlefield*, 92 F.3d 413, 416 (6th Cir. 1996). The Supreme Court has strictly limited the types of cases for which there may be an actual injury:

Bounds does not guarantee inmates the wherewithal to transform themselves into litigating engines capable of filing everything from shareholder derivative actions to slip-and-fall claims. The tools it requires to be provided are those that the inmates need in order to attack their sentences, directly or collaterally, and in order to challenge the conditions of their confinement. Impairment of any other litigating capacity is simply one of the incidental (and perfectly constitutional) consequences of conviction and incarceration.

Lewis, 518 U.S. at 355. “Thus, a prisoner’s right to access the courts extends to direct appeals, habeas corpus applications, and civil rights claims only.” *Thaddeus-X v. Blatter*, 175 F.3d 378, 391

(6th Cir. 1999) (en banc). Moreover, the underlying action must have asserted a non-frivolous claim. *Lewis*, 518 U.S. at 353; *accord Hadix v. Johnson*, 182 F.3d 400, 405 (6th Cir. 1999) (*Lewis* changed actual injury to include requirement that action be non-frivolous).

In addition, the Supreme Court squarely has held that “the underlying cause of action . . . is an element that must be described in the complaint, just as much as allegations must describe the official acts frustrating the litigation.” *Christopher v. Harbury*, 536 U.S. 403, 415 (2002) (citing *Lewis*, 518 U.S. at 353 & n.3). “Like any other element of an access claim, the underlying cause of action and its lost remedy must be addressed by allegations in the complaint sufficient to give fair notice to a defendant.” *Id.* at 416.

Plaintiff does not identify the nature of the altered pages and he does not indicate if or how any changes may have affected his litigation of a non-frivolous claim. He has wholly failed to describe the nature of the underlying action, as required by *Christopher*, 436 U.S. at 415, and he has not alleged any injury to that action. Moreover, while Plaintiff mentions Defendant Young, he does not allege any facts suggesting that Defendant Young had anything to do with any change to his brief. Instead, he merely names Defendant Young or some other MDOC employee, without pointing to Young’s personal conduct. Such an allegation is insufficient, especially in light of the fact that Plaintiff also makes frivolous allegations to the effect that Defendant Young is responsible for putting aliens in his cell and putting organisms in his food.

II. Frivolousness

A claim may be dismissed as frivolous if “it lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989); *Lawler v. Marshall*, 898 F.2d 1196, 1198 (6th Cir.1990). Claims that lack an arguable or rational basis in law include claims for which the defendants are clearly entitled to immunity and claims of infringement of a legal interest which

clearly does not exist; claims that lack an arguable or rational basis in fact describe fantastic or delusional scenarios. *Neitzke*, 490 U.S. at 327-28; *Lawler*, 898 F.2d at 1199. The Court has the “unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” *Id.*, 490 U.S. at 327. “A finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them.” *Denton v. Hernandez*, 504 U.S. 25, 32 (1992). Examples of claims lacking rational facts include a prisoner’s assertion that Robin Hood and his Merry Men deprived prisoners of their access to mail or that a genie granted a warden’s wish to deny prisoners any access to legal texts. *See Neitzke*, 490 U.S. at 327-28; *Lawler*, 898 F.2d at 1198-99. An *in forma pauperis* complaint may not be dismissed, however, merely because the court believes that the plaintiff’s allegations are unlikely. *Id.*

The remainder of Plaintiff’s allegations lack a rational basis in fact. Plaintiff alleges that Defendants, including President Obama, have used him as a guinea pig for 18 of his 20 years of incarceration. He alleges that Defendants have placed aliens in his cell to throw him around, placed a microchip in his brain to cause meningitis and to track his thoughts, and introduced organisms into his system that cause vision problems and constipation. Such allegations are patently irrational. Accordingly, the Court will dismiss Plaintiff’s action because it is frivolous. *See Burnes v. Clinton*, No. 00-3208, 2000 WL 1800510, at *1 (6th Cir. Nov. 30, 2000) (complaint alleging that President Clinton and various other high-ranking federal officials were subjecting her to electronic surveillance, mind-reading, and remote torture due to her bisexuality was properly dismissed as frivolous); *Graves v. Cohen*, No. 99-4476, 2000 WL 1720647, at *1 (6th Cir. Nov. 7, 2000) (plaintiff’s claim concerning the AIDS virus being injected into the American population by the Pentagon was properly dismissed as frivolous); *Dowell v. Tennessee*, No. 92-6125, 1993 WL

169052, at *1 (6th Cir. May 18, 1993) (affirming district court's dismissal of claims of conspiracy to inflict emotional distress as fantastic and delusional).

Conclusion

Having conducted the review required by the Prison Litigation Reform Act, the Court determines that Plaintiff's action will be dismissed pursuant to 28 U.S.C. §§ 1915(e)(2) and 1915A(b), and 42 U.S.C. § 1997e(c), because his allegations either fail to state a claim or are frivolous.

The Court must next decide whether an appeal of this action would be in good faith within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997). For the same reasons that the Court dismisses the action, the Court discerns no good-faith basis for an appeal. Should Plaintiff appeal this decision, the Court will assess the \$505.00 appellate filing fee pursuant to § 1915(b)(1), *see McGore*, 114 F.3d at 610-11, unless Plaintiff is barred from proceeding *in forma pauperis*, e.g., by the "three-strikes" rule of § 1915(g). If he is barred, he will be required to pay the \$505.00 appellate filing fee in one lump sum.

This is a dismissal as described by 28 U.S.C. § 1915(g).

A Judgment consistent with this Opinion will be entered.

Dated: October 7, 2014

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE